

JS 44 (Rev. 09/11)

**CIVIL COVER SHEET**

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

**I. (a) PLAINTIFFS**

REVERA INC.

(b) County of Residence of First Listed Plaintiff N/A  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, Telephone Number, and Email Address)

John MacDonald, Constangy, Brooks & Smith, LLP, 100 Overlook Ctr.,  
2nd Fl., Princeton, NJ 08540 609-357-1183 jmacdonald@constangy.com

**DEFENDANTS**

STUART H. LINDEMAN, CARE ONE, LLC, CARE ONE  
MANAGEMENT, LLC and CARE ONE MANAGEMENT, INC.

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                                       |   |                            |                                       |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                                   |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input type="checkbox"/> 1            | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input checked="" type="checkbox"/> 3 | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. Section 1332

Brief description of cause:

Breach of Contract - Employment

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

08/01/2012

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

REVERA INC.,

Plaintiff,

vs.

STUART H. LINDEMAN, CARE ONE, LLC,  
CARE ONE MANAGEMENT, LLC and  
CARE ONE MANAGEMENT, INC.,

Defendants.

**CIVIL ACTION NO. 12-\_\_\_\_\_**

**COMPLAINT**

Plaintiff Revera Inc., (hereinafter “Revera” or the “Company”), through its counsel, Constangy Brooks & Smith, LLP, by way of Complaint against Defendants Stuart H. Lindeman, Care One, LLC, Care One Management, LLC and Care One Management, Inc. (the corporate defendants hereinafter collectively referred to as “Care One”), states as follows:

**PARTIES**

1. Revera is a Canadian corporation registered in the Province of Ontario, with a principal place of business located at 55 Standish Court, 8<sup>th</sup> Floor, Mississauga, Ontario, Canada.

2. Defendant Stuart H. Lindeman (“Lindeman”) is a citizen of the State of Connecticut and is currently employed at Care One’s headquarters in Fort Lee, New Jersey.

3. Defendant Care One, LLC is a limited liability company of the State of New Jersey with a principal place of business located at 173 Bridge Plaza North, Fort Lee, New Jersey.

4. Defendant Care One Management LLC is an affiliated limited liability company

of the State of New Jersey with a principal place of business located at 173 Bridge Plaza North, Fort Lee, New Jersey.

5. Defendant Care One Management, Inc. is an affiliated corporation of the State of New Jersey with a principal place of business located at 173 Bridge Plaza North, Fort Lee, New Jersey.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332 because there is complete diversity of citizenship between Plaintiff and all Defendants and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00.

7. Venue is proper in this district pursuant to 28 U.S.C. §1391(a) because the corporate Defendants are headquartered in this district, and further, because a substantial part of the events and acts giving rise to this claim occurred within this district.

### **ALLEGATIONS COMMON TO ALL COUNTS**

#### ***Revera and Care One are Direct Business Competitors***

8. Care One, according to information set forth on its corporate website, is a family-owned and operated senior care company “with over 68 care centers located in nine states. The company operates nursing homes and also has a hospice component, home healthcare agency and pharmacy company” that has over 15,000 employees and \$1B in revenues.

9. Revera provides a wide range of home care services, including nursing, personal care, home support, and therapy and rehabilitation services for clients of all ages, from newborns to seniors in Canada and the United States that ranges from short-term help after a hospital stay, to ongoing support with day-to-day tasks and activities, to 24-hour nursing

supervision. In the United States, Revera operates 30 nursing and rehabilitation centers in New Jersey, Connecticut, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, Virginia, and Washington.

10. Revera and Care One are direct competitors in the mid-Atlantic health care market.

**Lindeman's Employment with Revera**

11. Revera hired Lindeman in November 1999 as Senior Vice President of its U.S. Skilled Nursing Facilities division.

12. In that capacity, Lindeman acquired non-public knowledge of the internal operations of Revera and became familiar with the skills and capabilities of the other members of Revera management. According to Lindeman's "LinkIn" employment overview, Lindeman had "Overall Responsibility" for Revera's U.S. Division, which includes "Skilled Nursing, Assisted Living, Pharmacy, Rehabilitation Company and other Ancillary businesses."

13. Revera's business success and reputation are attributable to, among other things, its management personnel, individuals who are carefully selected and integrated into Revera's operations. The process of selecting and integrating executive personnel into Revera's operations is a time-consuming and expensive process.

14. In order to protect this investment in time, money and other resources, Revera has required certain members of management, including Lindeman, to enter into restrictive covenants that prohibit them - in subsequent employment - from "hiring away" Revera personnel.

15. On November 8, 2010, Lindeman entered into a formal employment agreement with Revera. In an addendum to the employment agreement, and in exchange for additional

consideration, Lindeman agreed as follows:

**Non-Solicitation of Employee**

The Executive agrees that during the term of the Executive's employment and for a period of twelve (12) months following the termination of the Executive's employment, for any reason whatsoever, the Executive shall not directly or indirectly employ or retain as an independent contractor any employee of or independent contractor to the Company or influence any employee of or independent contractor to the Company to resign his or her employment or engagement with the Company.

(Emphasis in the original).

16. Further, the employment agreement provides: "The Executive shall inform any prospective employers of the existence of this Addendum to the Employment Contract and the obligations which it imposes upon the Executive."

17. On or about February 27, 2012, Lindeman's employment with Revera ended. In the resulting severance agreement entered into between Revera and Lindeman, the Company reminded Lindeman of his continuing obligation to comply with the terms of his existing restrictive covenant. By entering into the severance agreement and accepting severance pay, Lindeman confirmed and further ratified his agreement to abide by the provisions of his prior contractual agreement with the Company.

18. In May of 2012, Lindeman accepted employment with Revera competitor Care One as its chief operating officer.

19. On information and belief, Care One was aware of, or through the exercise of reasonable diligence should have been aware, the fact that Lindeman's prospective employment was subject to the provisions of an existing restrictive covenant with Revera.

20. Despite this knowledge, Care One hired Lindeman as its COO and tacitly approved of, and benefited from, Lindemans' subsequent, repeated violations of his restrictive

covenant.

**Within Two Months of Joining Care One, Lindeman Hires Revera's Director of Sales**

21. On information and belief, subsequent to his departure from Revera, Lindeman communicated with the Director of Sales of Revera's U.S. Division - Pamela Cummings ("Cummings") - for the purpose of encouraging her, directly or indirectly, to abandon her position at Revera to join Care One.

22. Within thirty (30) days of becoming COO of Care One, Lindeman hired Cummings as "Regional Sales and Marketing Manager" for Care One.

23. While employed at Revera, Cummings had acquired a complete knowledge of the U.S. Division's sales strategies, sales contacts and sales information.

24. Revera invested substantial time and resources into the selection, training and development of Cummings at Revera's U.S. Division.

25. The loss of Cummings to primary competitor Care One constituted a substantial blow to the business operations of Revera's U.S. Division.

26. Identifying, training and integrating a permanent replacement for Cummings is a difficult and resource-consuming task.

**Lindeman Hires Revera's Vice President of Operations**

27. Further, within ninety (90) days of assuming the title of COO at Care One, Lindeman hired, or approved the hiring of Tina Thomas ("Thomas"), who was previously the Vice President of Operations for Revera's U.S. Division and a direct report of Lindeman's.

28. Thomas, who joined Revera in December 1999, held a key role in the overall management of the operations of Revera's U.S. Division.

29. Thomas had an in-depth knowledge of Revera's U.S. operations and plans.

30. The abrupt loss of Thomas to a direct competitor was detrimental to Revera's U.S. operations.

31. Identifying, training and integrating a permanent replacement for Thomas is a difficult and resource-consuming task.

**Lindeman Hires Two of Revera's Business Support, Projects & Analytics Managers**

32. Further, within ninety (90) days of assuming the title of COO at Care One, Lindeman hired, or approved the hiring of Cassidy Bankroft ("Bankroft"), who was at that time a Business Support, Projects & Analytics Manager for Revera's U.S. Division.

33. Bankroft, who joined Revera in 2008, was responsible for forecasting, budgeting, business plan operation appraisal analysis, and general financial planning for the U.S. Division.

34. Bankroft had in-depth knowledge of Revera's financial operations and plans.

35. The abrupt loss of Bankroft to a direct competitor was detrimental to Revera's U.S. operations.

36. Lindeman also hired or approved the hiring of Wendy Weum ("Weum"), who was previously a Business Support, Projects & Analytics Manager for Revera's U.S. Division.

37. Weum, who joined Revera in July of 2008, was also responsible for forecasting, budgeting, business plan operation appraisal analysis, and general financial planning for the U.S. Division.

38. Weum had in-depth knowledge of Revera's financial operations and plans.

39. The abrupt loss of Weum to a direct competitor was detrimental to Revera's U.S. operations.

**COUNT ONE: INJUNCTIVE RELIEF**

40. Plaintiff repeats and realleges the allegations made in each of the foregoing paragraphs as though fully set forth herein.

41. The “Non-Solicitation of Employee” restrictive covenant prohibited Lindeman from directly or indirectly inducing any Revera employee to leave Revera’s employment.

42. Additionally, the restrictive covenant prohibited Lindeman from *employing* a Revera employee for a period of one (1) year following his departure from the Company.

43. In violation of his restrictive covenant, Lindeman, directly or indirectly, induced four employees - within a 90-day span - to leave their employment at Revera to work for him at Care One.

44. In addition to violating his restrictive covenant by inducing these Revera employees to quit Revera to join Care One, Lindeman also violated is restrictive covenant simply by hiring/employing the four Revera management employees at Care One.

45. These violations resulted in irreparable harm to Revera that cannot be adequately remedied at law.

46. There is a likelihood of success on the merits, because Lindeman has violated, and continues to violate, the plain language of a restrictive covenant that he freely entered into.

47. A balancing of the equities favors enforcement of the restrictive covenant. 47.

Care One, which was either aware of the restrictive covenant entered into by its COO, or through the exercise of reasonable due diligence should have been aware of the restrictive covenant, is complicit in Lindeman’s breach of his agreement. WHEREFORE, Plaintiff seeks judgment on the Complaint against Lindeman and Care One, along with an order granting a one-year permanent injunction prohibiting Lindeman or Care One from hiring employees of



Revera, along with reasonable attorney's fees, costs of suit and such other and further relief as the Court deems equitable under the premises.

**COUNT TWO: BREACH OF RESTRICTIVE COVENANT**

48. Plaintiff repeats and realleges the allegations made in each of the foregoing paragraphs as though fully set forth herein.

49. In connection with, and as a condition of his employment by Revera, Lindeman entered into a restrictive covenant that forbade him from directly or indirectly inducing Revera employees from leaving the Company, and which further forbade him from hiring/employing Revera employees for a period of twelve (12) months following his termination of employment.

50. The restrictive covenant also forbade Lindeman from hiring/employing Revera employees for a twelve (12) month period of time following his termination of employment with Revera.

51. Lindeman breached the restrictive covenant by inducing the above identified employees to leave Revera and join competitor Care One where Lindeman in COO.

52. Lindeman also breached the restrictive covenant by hiring/employing the above- identified employees at Care One, a direct competitor of Revera.

53. As a direct and proximate result of these breaches, Revera has suffered damages (in addition to the severance monies paid to Lindeman).

WHEREFORE, Plaintiff seeks judgment on the Complaint against Defendant Lindeman, along with compensatory damages, reasonable attorney's fees, costs of suit and such other and further relief as the Court deems equitable under the premises.

**COUNT THREE: TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS AND PROSPECTIVE ECONOMIC GAIN**

54. Plaintiff repeats and realleges the allegations made in each of the foregoing paragraphs as though fully set forth herein.

55. Revera had a reasonable expectation of continuing economic advantage - and business stability - resulting from the continued employment of the above-identified management personnel.

56. Care One and Lindeman have engaged in “raiding” by systematically hiring away numerous key management personnel from Revera in a very short period of time.

57. But for Defendants’ tortious interference, there is a reasonable probability that Plaintiff would continue to enjoy the continued employment of the above-identified personnel along with the business stability resulting from their continued employment.

58. This economic advantage was lost when Defendants intentionally and with malice acted to undermine the U.S. Division of Revera by hiring away a substantial portion of Revera’s U.S. Division’s management team over a very short period of time, hoping to strategically disadvantage Revera.

59. Revera lost its economic advantage and suffered losses as a result of Defendants intentional, tortious interference and unfair competition.

WHEREFORE, Plaintiff seeks judgment on the Complaint against Defendants, along with compensatory damages, punitive damages, reasonable attorney’s fees, costs of suit and such other and further relief as the Court deems equitable under the premises.

#### **COUNT FOUR: UNJUST ENRICHMENT**

60. Plaintiff repeats and realleges the allegations made in each of the foregoing paragraphs as though fully set forth herein.

61. The contractual agreement between Revera and Lindeman expressly forbade Lindeman from directly or indirectly inducing Revera employees from leaving the Company, and further forbade him from hiring/employing Revera employees for a period of twelve (12) months following his

termination of employment. Additionally, the restrictive covenant prohibited Lindeman from *employing* a Revera employee for a period of one (1) year following his departure from the Company.

62. Care One knew or should have known of these pre-existing restrictions on Lindeman's employment.

63. Notwithstanding this knowledge, Care One allowed, and on information and belief, encouraged Lindeman's recruiting, hiring and/or employment of the above-identified Revera management personnel.

64. Care One has retained the benefits of the improper employment of Revera's management personnel under circumstances which rendered it inequitable and unjust for Care One to retain such benefits.

65. Consequently, Care One was unjustly enriched by Lindeman's violations of his restrictive covenants with Revera – at the Revera's expense.

WHEREFORE, Plaintiff seeks judgment on the Complaint against Care One, along with compensatory damages, reasonable attorney's fees, costs of suit and such other and further relief as the Court deems equitable under the premises.

**COUNT FIVE: VIOLATION OF THE COVENANTS  
OF GOOD FAITH AND FAIR DEALING**

66. Plaintiff repeats and realleges the allegations made in each of the foregoing paragraphs as though fully set forth herein.

67. The covenants of good faith and fair dealing were implied into both the original employment contract and the addendum between Revera and Defendant Lindeman.

68. The contractual agreement between Revera and Defendant Lindeman expressly forbade Lindeman from directly or indirectly inducing Revera employees from leaving the Company, and

which further forbade him from hiring/employing Revera employees for a period of twelve (12) months following his termination of employment.

69. Additionally, the restrictive covenant prohibited Lindeman from *employing* a Revera employee for a period of one (1) year following his departure from the Company.

70. In direct violation of his restrictive covenant and the covenants of good faith and fair dealing implied therein, Lindeman, directly and indirectly, induced four employees - within only a 90-day span - to leave their employment at Revera to work for him at Care One.

71. As a direct and proximate result of this breach, Revera has suffered damages.

WHEREFORE, Plaintiff seeks judgment on the Complaint against Defendant Lindeman, along with compensatory damages, reasonable attorney's fees, costs of suit and such other and further relief as the Court deems equitable under the premises.

Dated: August 1, 2012

CONSTANGY, BROOKS & SMITH, LLP

/s/ John E. MacDonald  
By: John E. MacDonald (I.D. 011511995)  
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*Rivera Inc.*

**CERTIFICATION PURSUANT TO L. CIV. R. 11.2**

I hereby certify that the matter in controversy here is not the subject of any other action pending in any other court, or of any pending arbitration or administrative proceeding.

Dated: August 1, 2012

CONSTANGY, BROOKS & SMITH, LLP

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